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 HOME DEPOT U.S.A., INC.

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Attorneys for Defendant
 UNITED STATES FIDELITY AND GUARANTY COMPANY

UNITED STATE DISTRICT COURT
 THE NORTHERN DISTRICT OF CALIFORNIA

HOME DEPOT U.S.A., INC.,

Plaintiff,

vs.

UNITED STATES FIDELITY and
 GUARANTY COMPANY, TRAVELERS
 INSURANCE COMPANY, and DOES 1
 through 10, inclusive,

Defendants.

No. 08-02713 SC

**(AMENDED) STIPULATION AND
~~[PROPOSED]~~ ORDER TO EXTEND
 DEADLINE TO CONDUCT EARLY
 NEUTRAL EVALUATION**

Pursuant to Civil L.R. 6-2 and 16-10(c) and ADR L.R. 5-5, and for the reasons set forth in the accompanying Declaration of Counsel, Plaintiff Home Depot U.S.A., Inc. (“Plaintiff”) and Defendant United States Fidelity and Guaranty Company (“Defendant”) stipulate that the deadline for them to conduct an early neutral evaluation (“ENE”) should be extended until February 1, 2009. The parties further stipulate that:

1. On September 5, 2008, this Court referred this case to ENE and ordered the parties to conduct the session by December 3, 2008;

2. On October 23, 2008, Christopher Johns, the early neutral evaluator, Plaintiff, and Defendant, agreed that extending the deadline to conduct ENE would give Plaintiff and Defendant the opportunity to more meaningfully prepare for and participate in the session.

3. An ENE has been scheduled for January 6, 2009.

4. There have been no previous time modifications in this case.

5. Extending the deadline to conduct the ENE will not affect the other events in the Court's September 5, 2008 order scheduling trial and pre-trial matters.

DATED: November 10, 2008

MORISON ANSA HOLDEN ASSUNCAO &
PROUGH, LLP

By: /s/
MARC J. DEREWETZKY
Attorneys for Defendant
UNITED STATES FIDELITY AND
GUARANTY COMPANY

DATED: November 10, 2008

JENKINS GOODMAN NEUMAN
& HAMILTON LLP

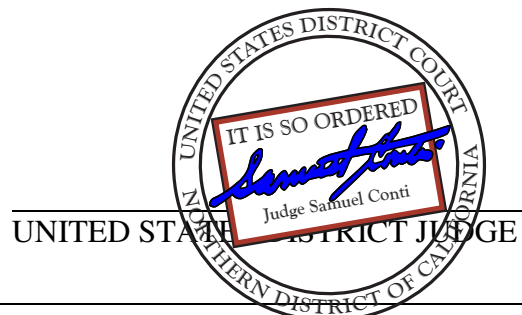
By: /s/
JOSHUA S. GOODMAN
PAIGE P. YEH
Attorneys for Plaintiff
HOME DEPOT U.S.A., INC.

[PROPOSED] ORDER

**PURSUANT TO STIPULATION,
IT IS SO ORDERED.**

DATED: November 12, 2008

Jenkins Goodman
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DECLARATION OF COUNSEL

I, Joshua S. Goodman, declare as follows:

1. I am a partner in the law firm of Jenkins Goodman Neuman & Hamilton, LLP, attorneys of record herein for Plaintiff. I am familiar with the events below either through my own personal experience or from my review of case documents provided to me and attached hereto. Therefore, I am able to competently testify to the following.

2. On September 5, 2008, this Court referred this case to ENE and ordered the parties to conduct the session by December 3, 2008;

3. On October 23, 2008, Christopher Johns, the early neutral evaluator, Plaintiff, and Defendant, agreed that extending the deadline to conduct ENE would give Plaintiff and Defendant the opportunity to more meaningfully prepare for and participate in the session.

4. An ENE has been scheduled for January 6, 2008.

5. There have been no previous time modifications in this case.

6. Extending the deadline to conduct the ENE will not affect the other events in the Court's September 5, 2008 order scheduling trial and pre-trial matters.

7. I obtained the concurrence of Defendant's counsel, Marc J. Derewetzky, in the filing of this document. I will maintain records to show this concurrence for subsequent production for the Court if so ordered or for inspection upon request by a party until one year after final resolution of this action (including appeal, if any).

DATED: November 10, 2008

/s/

JOSHUA S. GOODMAN

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